IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 19TH DECEMBER 2006 / 28TH AGRAHAYANA 1928

Crl.MC.No. 4067 of 2006()

CRRP.4/2005 of ADDL. SESSIONS COURT, THRISSUR
CMP.6787/2004 of JUDL. MAGISTRTE OF FIRST CLASS COURT-III, THRISSUR
CRIME NO.417/2004 IN THE OLLUR POLICE STATION

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REVISION PETITIONER/PETITIONER:

C.V.PRAKASAN, S/O.VELUKUTTY,
CHULLIPARAMBIL HOUSE,
PUTHUR VILLAGE,
P.O.PUTHUR, THRISSUR-14.

BY ADV. SRI.K.R.RAJKUMAR

RESPONDENTS:

STATE OF KERALA REPRESENTED BY C.I.OF POLICE,
PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.K.A.AKBAR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 19/12/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.4067 of 2006

Dated this the 19th day of December 2006

O R D E R

A Maruti van was allegedly seized by the police on 18/08/2004. That, it is alleged, continues in the custody of the officials even now. The petitioner allegedly filed a claim petition on 19/10/2004 for release of the vehicle to him. That claim petition was dismissed. The petitioner preferred a revision petition, which again was dismissed by the learned Sessions Court. The petitioner has, hence, come to this court with this petition under Section 482 Cr.P.C.

2. According to the petitioner, he had purchased the vehicle from the registered owner, as per a sale agreement dated 11/08/2004. After such purchase, he, it is alleged, had handed over the vehicle to one of the accused by name Ayyappa Kannan. The vehicle was seized by the police on 18/08/2004. It is the case of the police that the vehicle has been seized, on the allegations that it was property acquired with amounts obtained by the disposal of stolen goods.

3. The petitioner's application for relief was rejected interalia on the ground that the original registration certificate has not been produced and that transfer forms duly filled up by the previous registered owner were also not produced. Such documents were not produced before the trial court or before the court of revision. They have not been produced before this court also. When this petition came up for hearing, the learned counsel for the petitioner submits that if opportunity is given to the petitioner, the petitioner shall be able to produce all the relevant and necessary documents to prove his right to be in possession of the vehicle before the learned Magistrate. It is submitted that the vehicle is now exposed to sun and rain and unnecessarily forced to suffer damage and deterioration. If an opportunity is given to the petitioner, the petitioner shall establish his right to be in possession, submits the learned counsel for the petitioner .

4. Having considered all the relevant inputs, I am satisfied that a further opportunity can be granted to the petitioner, as prayed for by him. Of course, the learned Magistrate will have to consider the prayer for release of the vehicle afresh, in accordance with law, after giving all concerned

including the registered owner and the accused from whose possession the vehicle was allegedly seized, an opportunity to raise and substantiate their respective contentions.

5. I am satisfied that this Criminal Miscellaneous Case, can in these circumstances be allowed in part. Of course, the learned Magistrate will consider whether the documents which the petitioner now wants to produce are genuine documents or whether they have been brought into existence, after the petition was filed. Explanation for non-production of the relevant documents at the appropriate stage will certainly have to be considered by the learned Magistrate.

6. In the result:

a) This Criminal Miscellaneous Case is allowed.

b) The impugned orders are set aside.

c) The learned Judicial Magistrate of the First Class-III, Thrissur shall dispose of CMP.No.6787 of 2004 in Crime No.417 of 2004 of Ollur Police Station, afresh and in accordance with law, after hearing all the parties concerned.

(R.BASANT, JUDGE)

jsr

R.BASANT, J

C.R.R.P.No.

ORDER

21ST DAY OF JULY 2006